

Senate Bill No. 661

Passed the Senate September 10, 2007

Secretary of the Senate

Passed the Assembly September 6, 2007

Chief Clerk of the Assembly

This bill was received by the Governor this _____ day
of _____, 2007, at _____ o'clock ____M.

Private Secretary of the Governor

CHAPTER _____

An act to add Section 655.7 to, and to repeal Section 655.6 of, the Business and Professions Code, relating to the healing arts.

LEGISLATIVE COUNSEL'S DIGEST

SB 661, Maldonado. Healing arts: anatomic pathology services.

Existing law makes it unlawful for healing arts practitioners to charge, bill, or otherwise solicit payment from any patient, client, customer, or 3rd-party payer for cytologic services relating to the examination of gynecologic slides if those services were not actually rendered by the practitioner or under his or her direct supervision. Existing law also requires clinical laboratories performing cytologic examinations of gynecologic slides to directly bill either the patient or the responsible 3rd-party payer for the cytology services rendered by the laboratory, except as specified. Under existing law, a violation of these provisions is a crime.

This bill would delete the prohibition against a healing arts practitioner charging, billing, or otherwise soliciting payment for cytological services relating to the examination of gynecologic slides. The bill would instead prohibit a healing arts practitioner from charging, billing, or otherwise soliciting payment for anatomic pathology services, as defined, if those services were not actually rendered by the practitioner or under his or her direct supervision, except as specified. The bill would also require a clinical laboratory and a physician and surgeon performing anatomic pathology services to directly bill the patient, the responsible 3rd-party payer, the clinical laboratory that sent the sample for specialized testing, if certain requirements are met, the requesting hospital or clinic, or the governmental agency or its specified public or private agent, agency, or organization responsible for payment for those services, except as specified.

Because a violation of these provisions would be punishable as a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

The people of the State of California do enact as follows:

SECTION 1. Section 655.6 of the Business and Professions Code is repealed.

SEC. 2. Section 655.7 is added to the Business and Professions Code, to read:

655.7. (a) (1) A person licensed under this division or under an initiative act referred to in this division shall not charge, bill, or otherwise solicit payment, directly or indirectly, for anatomic pathology services if those services were not actually rendered by that person or under his or her direct supervision.

(2) Notwithstanding paragraph (1), a clinical laboratory may seek payment for anatomic pathology services provided directly or through arrangements with a physician and surgeon in compliance with Article 18 (commencing with Section 2400) of Chapter 5 or if it is required to send a sample to another clinical laboratory for specialized testing or services and if that clinical laboratory has performed the services, directly or through arrangements with a physician and surgeon as set forth in this subdivision, described in subdivision (e) related to that sample.

(3) Notwithstanding paragraph (1), a clinical laboratory may bill for anatomic pathology services that were performed by an affiliated clinical laboratory. For purposes of this section, an “affiliated clinical laboratory” means a clinical laboratory that is wholly owned by, is the parent company of, or is under common ownership with, the clinical laboratory billing for the anatomic pathology services. For purposes of this section, “wholly owned” means 100 percent ownership directly or through one or more subsidiaries, and “common ownership” means 100 percent ownership by a common parent company.

(b) A clinical laboratory or a physician and surgeon performing anatomic pathology services shall seek payment for those services solely from the following:

(1) The patient.

(2) The insurer, health care service plan, or other third-party payer responsible for payment of the services.

(3) The hospital, public health clinic, or nonprofit health clinic ordering the services.

(4) The clinical laboratory that sent the sample for specialized testing or services only if that clinical laboratory has performed the services, directly or through arrangements with a physician and surgeon in compliance with Article 18 (commencing with Section 2400) of Chapter 5, described in subdivision (e) related to that sample.

(5) A governmental agency or its specified public or private agent, agency, or organization responsible for payment of the services.

(c) No person is required to reimburse a person licensed under this division or under an initiative act referred to in this division for a charge or claim made in violation of this section.

(d) This section shall not apply to any of the following:

(1) A person who, or a clinical laboratory that, contracts directly with a health care service plan licensed pursuant to Section 1349 of the Health and Safety Code, if services are to be provided to enrollees of the plan on a prepaid basis.

(2) A person who, or a clinic that, provides anatomic pathology services without charge to the patient, or on a sliding scale payment basis if the patient's charge for services is determined by the patient's ability to pay.

(3) Health care programs operated by public entities, including, but not limited to, colleges and universities.

(4) Health care programs operated by private educational institutions to serve the health care needs of their students.

(5) A person who, or a clinic that, contracts with an employer to provide medical services to its employees if the anatomic pathology services relating to the examination of gynecologic slides are provided under the contract.

(e) For the purposes of this section, the term "anatomic pathology services" means any of the following:

(1) Histopathology, meaning the gross and microscopic examination of organ tissue performed by a physician and surgeon or under the supervision of a physician and surgeon.

(2) Cytopathology, meaning the examination of cells from fluids, aspirates, washings, brushings, or smears, including the Pap test examination, performed by a physician and surgeon or under the supervision of a physician and surgeon.

(3) Hematology, meaning the microscopic evaluation of bone marrow aspirates and biopsies performed by a physician and surgeon, or under the supervision of a physician and surgeon, and peripheral blood smears when the attending or treating physician and surgeon or technologist requests that a blood smear be reviewed by a pathologist.

(4) Subcellular pathology and molecular pathology, when required to be reviewed by a pathologist.

(5) Surgical pathology, meaning the gross and microscopic examination of organ tissue performed by a physician and surgeon or under the supervision of a physician and surgeon.

(6) Transfusion medicine or blood banking services performed by a pathologist.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.

Approved _____, 2007

Governor